IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9451 of 1996

For Approval and Signature:

HON'BLE MR.JUSTICE AKIL KURESHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

DAHYALAL BHIKHABHAI CHUDASAMA

Versus

GUJARAT ELECTRICITY BOARD

Appearance:

1. Special Civil Application No. 9451 of 1996

MR MUKESH H RATHOD for Petitioner No. 1

RULE SERVED for Respondent No. 1

MR MD PANDYA for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE AKIL KURESHI

Date of decision: 05/10/2004

ORAL JUDGEMENT

In this petition, the petitioner has challenged the order of penalty dated 17.11.1994, by which the Disciplinary Authority was pleased to impose a penalty on the petitioner of reverting the petitioner from the post

of Meter Reader to that of Helper. It was also provided that the petitioner shall not be entitled to receive promotion for a period of 5 years.

2. The petitioner has challenged the said order of penalty on number of grounds including that of violation of principles of natural justice in conduct of the enquiry. After hearing the matter for some time, this Court was of prima-facie opinion that the procedure adopted by the Disciplinary Authority in conducting enquiry against the petitioner and imposing the penalty as mentioned above may not stand the test of law. However, considering the defects noticed, it might have necessitated the matter to be remanded to the Disciplinary Authority for fresh consideration from the stage where the defect was noticed. That would however, have also caused inconvenience and prejudice to the petitioner since the Court is informed that the petitioner would be superannuated shortly. In that view of the matter, a suggestion was made to the respondent Board to substitute the existing penalty by any minor punishment and to put an end to the dispute between the parties. Learned Counsel Mr. Mayur Pandya appearing for the Gujarat Electricity Board has conveyed the suggestion of the Court to the competent authority in the Board and he states before the Court today that the Board would be agreeable to any minor punishment being substituted for the existing punishment imposed by the Disciplinary Authority.

3. Considering the issues arising in this petition and the concession given by the Counsel for the respondents, it is directed that the penalty imposed on the petitioner by order dated 17.11.1994 shall be substituted by the penalty of withholding of one increment for a period of two years without future effect. Accordingly, the petition is allowed in part. Rule is made absolute to the above extent with no order as to costs.

4. Since it is stated on behalf of the petitioner that the petitioner will be superannuated with effect from 31st October, 2004, it is expected that the respondents shall give effect to the modification in the order of penalty, as expeditiously as possible, preferably within a period of 3 months from the date of receipt of a copy of this order.

(Akil Kureshi, J.)

*/Mohandas